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RHMCSUU/DEPT OF ENERGY WASHINGTON DC
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UNCLAS SECTION 01 OF 03 UNVIE VIENNA 000029

SENSITIVE
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STATE FOR IO/T, ISN/MNSA, ISN/NESS, ISN/RA
NA-243-GOOREVICH/BRUNNS; NA-241 O'CONNOR, LAMONTAGNE
NRC FOR OIP - HENDERSON, SCHWARTZMAN

E.O. 12958: N/A

TAGS: [ENRG](#) [ETTC](#) [KNNP](#) [MNUC](#) [PARM](#) [PREL](#) [ENR](#)

SUBJECT: IAEA: NUCLEAR SUPPLIERS GROUP DISCUSSES TEXT BUT NO
AGREEMENT REACHED

REF: STATE 3082

¶1. (SBU) SUMMARY AND COMMENT: On January 15, interested NSG Participating Governments (PGs) discussed the current "clean text" to revise paragraphs 6 and 7 of the Part 1 NSG Guidelines regarding conditions for approval of transfers of enrichment and reprocessing (ENR) equipment and technology. During the day-long meeting, a number of countries requested clarification on the meaning or interpretation behind the proposed "clean text," often focusing on how supply within and outside the group would be affected. Brazil and Argentina spoke out against any references to the Additional Protocol (AP) because of their unique regional arrangement and Brazil's unwillingness to sign an AP at this point. A number of European PGs spoke in favor of requiring an AP. While many PGs reiterated previously known positions, Switzerland opposed the language in 6a(ii) and 7 (b) and (c), proposing new language which did not meet with the approval of those present. The Swiss said they would consider whether to formally table the language or not at the next CG, proposed for mid-March. Ambassador Schulte as U.S. head of delegation along with like-minded PGs noted the strong support for approving the language "as is" in recognition that it is a compromise text which has taken five years to negotiate. South Africa and Luxembourg did not attend the informal meeting. The Indian delegation in Vienna has taken active interest in this exercise, complaining that the NPT supply condition is inconsistent with the US-India nuclear deal.

¶2. (SBU) COMMENT: It is possible we may be able to make progress and obtain PG agreement on the Additional Protocol as a criterion for transfer of sensitive technologies if we can be flexible and creative in the CG Chair's report to the Plenary. PGs are hesitant to make any changes to the Nov 2008 "clean text". Both China and Russia have already signaled in writing that they can accept the text as it is. It is also clear suppliers do not intend to establish criteria to immediately cut off supply to two PGs. This needs to be balanced with PG positions that only through the combination of a CSA and an AP does the IAEA have the means to draw conclusions about the absence of undeclared activities. The CG Chair is working with a group of Friends of the Chair on a text that would note consultations with the IAEA on a possible future regional arrangement approved by the Board that combines the tools of both instruments. If the Chair is successful, we will still need to lobby reticent PGs to support the text in advance of the Plenary. One important key to the success of this approach is for PGs to understand that such a hybrid safeguarding arrangement does not exist today. END SUMMARY AND COMMENT

PARAGRAPH 6a(ii)

¶3. (SBU) After a brief opening statement by the Chair urging interested members to come to a conclusion on the text. Ambassador

Schulte noted the emphasis of the incoming US Administration on nonproliferation and its desire to achieve effective multilateral results. Now was an opportunity to show that the NSG could reach a conclusion, after nearly five years of work, on an issue of utmost importance to the World's nonproliferation regime. Subsequent discussion focused on 6a(ii) and how to make the AP a criterion for transfers of sensitive technologies. Brazil noted the text is ambiguous, and observed that Brazil has made a concession to agree to the AP as a condition of supply in certain circumstances. Brazil said it wishes to avoid ambiguity but it could only live with the text if it is clear that the Quadrapartite safeguards agreement between Brazil, Argentina, ABACC and the IAEA can meet the criteria set forth in 6(a)ii, and acknowledged that not all PGs agreed that does so. Brazil suggested the group think about making an exception for Argentina and Brazil, noting this would not be the first exception. Argentina supported.

14. (SBU) Spain and Switzerland both suggested references to INFCIRC 540 as a compromise, to which Brazil was unwilling to agree. Brazil continued to argue that a regional arrangement between Brazil and Argentina might be on the same level as an AP, but admitted they are not there yet. U.S. Del noted its aspiration for the universalization of the AP, however in recognition of the compromise text, strongly supports the text as written. Switzerland again noted regional agreements are counter to the intent of PGs adding the AP to their safeguards obligations. U.S., Canada, France, Japan, Spain, Italy, the UK, Ireland, South Korea, Australia and Belarus all agreed that approval of text as circulated would be best. The CG Chair observed that the NSG has past precedents for phasing in new supply arrangements, citing the adoption of the dual use regime and full scope safeguards as a condition of supply, and urged PGs to keep an open mind on text that might be used for the

UNVIE VIEN 00000029 002 OF 003

Chairman's report to the Plenary for this case.

15. (SBU) An uncomfortable but necessary discussion ensued about the AP criteria. The Chair observed that the group is considering an arrangement that clearly limits transfers to PGs that are in good standing, and suggested PGs consider why Argentina and Brazil would agree to something that would change their eligibility status. Japan stressed the importance of universality of the AP, but offered the consideration of special treatment for Brazil and Argentina, possibly in the form of a grandfather arrangement. Canada and New Zealand called attention to the NSG being seen as a "cartel" and cautioned that the group not be perceived as having a double standard for those in the NSG. Reaching no informal agreement, the Chair proposed to use the CG Chair's report to the Plenary as a vehicle to clarify the meaning of para 6 as a way of addressing concerns. France suggested Brazil and Argentina offer language for that purpose. Several PGs welcomed the suggestion that the CG Chair's report should note that there is an on going dialogue between the IAEA and the parties to the Argentina/Brazil Quadripartite Safeguards Agreement, which would indicate that eventually the Agreement could be appropriately structured to achieve the same objective as an AP. The Chair was left the task, with the assistance of a group of friends, of capturing an understanding for the Chair's report to the Plenary, with thoughts on how to phase in this new criterion for transfers.

16. (SBU) Without reaching informal agreement on 6a(ii), discussion moved on to para 7. Switzerland, Turkey and Spain voiced concerns about the concept of para 7, which they view as imposing restrictions on technology development, and Turkey in particular noted we should ensure we are not prohibiting access to PGs and NPT parties in good standing - as provided for in NPT Article IV. US Del noted that PGs can purchase technology on the commercial market, receive turnkey facilities, or by joint development followed by transfer controls, and pursue indigenous efforts, but the point remains that the language in paras 6 and 7 strikes a balance in the interest of all PGs and remains the best compromise text after five years of effort.

INFORMAL SWISS PROPOSALS

¶7. (SBU) Toward the close of the meeting, the Swiss Delegation informally proposed the following language for para 7:

(b) For a transfer of an enrichment facility or equipment based on enrichment technologies which have been demonstrated to produce enriched uranium on a significant scale. Participating Governments should: (Bullets not changed)

(c) Before exporting new enrichment technologies Participating Governments should inform the NSG of arrangements governing transfers of such technologies. Such arrangements should be, at a minimum, equivalent to those in 7(b). (Balance not changed)

¶8. (SBU) After comments, including from US Del, that these proposed changes would not help PGs reach agreement the Swiss said they would consider whether to table the language formally or not prior to or at the next CG. Late in the meeting, a clarification on supply chain was worked out among the U.S., Japan, and URENCO parties which will go in the Chair's report

6(b)

¶9. (SBU) Turkey expressed support for the criteria-based approach, but it does not share the need for, nor the understanding of, the subjective criteria. Turkey assured PGs it is ready to consider how to strengthen and expand 6(a), but 6(b) causes concern. Turkey noted all PGs have the right to apply subjective criteria and suggested that be left to PGs to do so. Others noted the subjective criteria are simply factors for consideration and that Turkey's concerns were already addressed in the version of the text that was produced at the Nov 2008 CG meeting. The CG chair suggested PGs keep Turkey's comments in mind and hoped differences could be resolved through diplomatic consultations.

¶10. (SBU) COMMENT: The Indian delegation in Vienna has taken active interest in this exercise, complaining that the NPT supply condition is inconsistent with the US- India nuclear deal. Mission has countered by noting that the US goal of NSG restrictions on ENR transfers pre-dates the US-India deal and has been well known to officials in Delhi. END COMMENT

UNVIE VIEN 00000029 003 OF 003

NEXT STEPS

¶11. (SBU) The Chair proposed the next CG be in March, possibly right after the Board of Governors (March 2-6). In an effort to reach informal agreement prior to the CG, the Chair said he would continue consultations with interested PGs, brief PGs not in attendance, and seek support for bringing this to an end in March.

SCHULTE